

State of Rhode Island

County of Washington

In Hopkinton on the third day of October 2022 A.D. the said meeting was called to order by Town Council President Stephen Moffitt, Jr. at 7:00 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

PRESENT: Stephen Moffitt, Jr., Sharon Davis, Robert Marvel; Scott Bill Hirst, Michael Geary; Town Solicitor Stephen Sypole; Town Manager Brian Rosso; Town Clerk Elizabeth Cook-Martin.

CALL TO ORDER AND ROLL CALL

The meeting was called to order with a moment of silent meditation and a salute to the Flag.

ROLL CALL

Councilors Davis, Hirst, Marvel, Moffitt and Geary announced they were present.

PUBLIC COMMENT

Joe Moreau of Old Depot Road announced that the Rhode Island League of Cities and Towns recently honored Town Clerk Elizabeth J. Cook-Martin for going above and beyond in her service to our town.

Thomas Byrnes stated that he is from Florida, Connecticut and Rhode Island; he is an American, a U.S. Veteran in the Vietnam War and has proudly served his country. Mr. Byrnes believed that the town needs his proposed water project and indicated that he had offered it to the town twenty years prior but at that time they did not feel there was a need.

Maryanne McNamara of North Road asked the Council where she could obtain a copy of the solar ordinance and if the Council could schedule a meeting between the State solar stakeholders and the town to answer questions and review the solar ordinance. Council President Moffitt explained that the solar ordinance was something that the Town Council had worked on and approved. Ms. McNamara questioned whether someone could amend that ordinance and Councilor Moffitt advised that anyone could put forth a request to amend an ordinance. She felt that state mandates being put forth cause an unreasonable demand on the town council and wondered how residents could be protected. She noted that she has been

dealing with the legislators who did not want to hear anything from the residents. Councilor Moffitt added that the legislators did not want to hear from the Town Councils either. Ms. McNamara asked Councilor Moffitt what power the Town Council had and he indicated none. She believed the town was not getting due process.

APPROVAL OF AGENDA ORDER

There were no concerns voiced over the agenda order.

CONSENT AGENDA

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR HIRST TO APPROVE CONSENT AGENDA AS FOLLOWS:

Approve Town Council Meeting Minutes of September 19, 2022; Set January 3, 2023 as the first Town Council Meeting in January due to New Year Holiday; Set January 3, 2023 as a hearing date for renewals of Campground Licenses; Set January 17, 2023 as the second Town Council Meeting in January due to Martin Luther King Day Holiday; Set January 17, 2023 as hearing date for renewals of Commercial Haulers Licenses.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

HEARING:

The Council opened a hearing to consider an amendment to the Hopkinton Zoning Ordinance District Use Table filed by Thomas J. Byrnes, Jr., 29166 Primrose Lane, Big Key, FL 33042 for property he owns located at 0 Ashaway Road, identified as AP 25 Lot 265 an RFR-80 Zone. The provision under which the application for a Zoning Ordinance Amendment is made is Section 16, Adoption and Amendment to Zoning Ordinance Map. The applicant proposes to establish a use category in the District Use Table entitled Commercial Water Distribution Center in Section 5 of the District Use Regulations and establish a Use Category 144 under Extractive & Industrial Non-manufacturing category.

The applicant proposes the following amendments to the District Use Table under Use Category 14 Mining as shown below in *italics*:

Use Category 14 Mining

	RFR-80	RES-1	NB	Comm.	Mnufct.	Primary	Secondary
<i>144 Commercial Water Distribution Center</i>	<i>S</i>	<i>N</i>	<i>N</i>	<i>P</i>	<i>N</i>	<i>A or N</i>	<i>PA</i>

The applicant Thomas Byrnes, Jr. was present with his representative Leah Boisclair, Esq. Filing fees had been paid and notices posted and a stenographer was present to record the hearing.

Thomas J. Byrnes, Jr. noted that his family purchased this property in 2004 with the intent of putting a family compound there; his grandkids planted blueberries and they use the property as a family farm. They previously approached the town about the possible distribution of water to the local area. They noted they had extensive tests done on the property which indicated that they would be able to supply the whole area with water. At that time there had been a lot of well issues in town and they felt the town might benefit from a public well; however, the town was not interested. Now they would like the Benn family, who has lived in this community since the 1800's, to come in and fill their trucks with fresh water.

Councilor Hirst noted that the Planning Board had cited four reasons that the Council should not approve this application, including that the proposal was not consistent with Rhode Island General Law 45-24-30, General purposes of zoning ordinances, Section (a)(1) promoting the public health, safety, and general welfare; (2) providing for a range of uses and intensities of use appropriate to the character of the city or town and reflecting current and expected future needs; and (4) providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation. Attorney Leah Boisclair of Charlestown, Rhode Island suggested that she would address all questions but wished her witnesses to testify first. Jeffrey Benn of Hopkinton was sworn in. He began by stating that he felt that the Planning Board had based their recommendation on speculation and conjecture. His family started their water business in 1968 and they make bulk water deliveries throughout the state, with employees who are from Hopkinton and surrounding communities. The people

who were opposed to this project falsely stated that they were looking to set up a building and make other proposed expansions on the site, which was untrue. The documents being looked at were from the original submission in 2009 and had nothing to do with their operation. The well was designed and approved by the State and DEM as a commercial well that can output up to 30,000 gallons a day without affecting surrounding wells. The most they have hauled on one day during 2020 was three trucks totaling 21,000 gallons and they are not looking to expand their operation. The entrance to the property is off of Route 216 and they have to travel that route anyway to get to where they are going so there would be no extra traffic associated with this proposal. Councilor Hirst asked Mr. Benn to explain why he felt the Town Council should overlook the Planning Board's recommendation. Mr. Benn indicated that they had no say at the Planning Board meeting and one of the Planning Board members indicated that this was not their area of expertise. Councilor Geary asked Mr. Benn how much water their trucks hold and he indicated 7,000 gallons. He noted that they are not draining the aquifer for when it rains it replenishes. Council President Moffitt advised that what they are proposing is a change to the use table, so it would be a town-wide change; they were not talking specifically about this one specific project. Mr. Benn replied that they had put an "S" to indicate that this would require a special use permit. Councilor Davis noted that he had compared Ashaway with the other communities where he obtained water and asked if he knew if those communities were well-based communities or had city water; Mr. Benn believed they had city water. Councilor Davis indicated that Hopkinton was totally different being a well based community. Solicitor Sypole explained that a special use permit is something that is generally presumably allowed, it just requires a Zoning Board hearing and most of the time special use permits were granted.

David Benn, Jr. of Chase Hill Road was sworn in. Mr. Benn noted that they were never asked a question at the Planning Board meeting. He felt the Board had made their mind up before the meeting. He stated that the Comprehensive Plan has a section titled: Goals, Principles and Recommendations which encourages development of commercial business, and recommendation 3 reads: "delineate map and protect aquifers that can support a new water system for economic

development... and apply for grants to develop public-private water systems.” He believed the concept of protection is too rigid and the idea that in order to protect something you have to leave it entirely alone is wrong and we do not apply that standard to any of our resources. He believed the question should be whether the aquifer can be accessed in a reasonable and sustainable way; however, the Planning Board was not concerned with that. Mr. Benn noted that they Council should look at the U.S. Geological Survey website and he produced a graph showing four USGS monitored wells in Richmond, Westerly, Charlestown and Connecticut with over thirty years of data being collected, advising there was a consistent, stable trend. There is no reason to believe that pulling water from the aquifer in Hopkinton would have any detrimental effect. Council President Moffitt advised that his concern was that this would be opened up to the whole town. Solicitor Sypole noted that the Planning Board is charged with interpreting the Comprehensive Plan and what they provide to the Council is advisory only. Mr. Benn felt the expert consensus was that southern Rhode Island did not have a water problem, though there are isolated incidents of dry wells.

Attorney Leah Boisclair apologized for the last minute amendment to the title and/or name of this use, noting that after the Planning Board hearing she came to the conclusion that the proposed name of *Commercial Water Distribution Center* sounded scary; like a large manufacturing industry that is going to come in and erect buildings and have hundreds of trucks going in and out of the property, interfering with the rural aspects of the town. She wished the name changed to *water extraction or water extraction site* and to use the definition that is already provided in the code. During the Planning Board hearing she was not given much of an opportunity to address anything, probably due to the title of this proposal. She suggested that the issue that the Planning Board focused on was the water supply and the aquifer situation. When surrounding wells go dry who is to say that this is because they are extracting water on her client’s property. One of the goals of the Comprehensive Plan is to preserve open space, outdoor recreation and the protection of natural and recreational resources and areas, to include forests, water and any type of ballfield or playground, stone walls, etc. Mr. Byrnes has owned this property since 2004 and he has never developed it aside

from the fact that he put in a state-approved well which was approved for a one family dwelling or if the town had wished, could have been approved as a public water system. This land is made up of wetlands, wildlife, trees, shrubbery and streams, all of which can be considered preserve, none of which has been touched aside from the well. Attorney Boisclair went through the Comprehensive Plan explaining why she believed their application should be approved. Council President Moffitt asked Attorney Boisclair what zone this property was located in and how many of its acres were usable. She stated that the property was zoned residential with approximately 1,100 square feet of the 15 acres being usable; basically there was no ability to develop this property. She felt it was a misuse of the property not to use the water that it supplies to the town. Councilor Hirst advised that ordinances were usually not geared for a specific site and she was asking the Town Council, through its legislative powers, to approve an ordinance which will impact the whole town; Council President Moffitt added that the town, at this time, is not seeking a source of public water and he felt they would be opening a can of worms if they allowed this.

Jeff Benn wished to note that their business has supplied water to solar farms; different places for dust control; and Canonchet Cliffs so residents did not have to be displaced. They provide different things for the community, not just water for pools.

Carl Rosen of Ashaway explained that he has been in the water industry from 1982 to 2015 and noted that he knew quite a bit about water, water filtration and pumps. He felt the biggest issue with this proposal was that it was spot zoning for they were asking to put a commercial or manufacturing zone in a residential area. Mr. Rosen advised that the well completion report noted that it was a seven gallon a minute well which was approved by the State of Rhode Island. He did not read anywhere in that data that the State had approved this as a commercial well. He also believed that water was a limited resource and should be protected and they are not the only ones drawing from that aquifer.

Timothy Gould of 30 Egypt Street advised that when this well was approved, it was for agricultural use for a blueberry farm. Mr. Gould had prepared and

submitted a list of 16 questions that he wished to have answered. He also submitted a petition in opposition of this proposal with 80 signatures from the neighbors.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MARVEL TO ACCEPT THE PETITION AS PART OF THE RECORD.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

Joe Moreau of Old Depot Road submitted a copy of the Cease and Desist Order issued by the Building and Zoning Office for the record, as well as an electrical permit application dated August 29, 2012 which stated under no. 14, description of work to be performed: temporary service agricultural use only, no residential use.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MARVEL TO ACCEPT THE CEASE AND DESIST ORDER AND ELECTRICAL PERMIT APPLICATION AS PART OF THE RECORD.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

Mr. Moreau felt that a commercial water distribution center was not in the best interest of the town and the documents submitted with this proposal were not up-to-date documents. He did not believe a commercial business should be allowed in an RFR80 zone.

Mary Lou Brown of 218 Main Street noted that the use category “mining” scares her and she does not want them extracting water that could potentially affect her ability to obtain water.

David Benn of Chase Hill Road felt there was a lot of disinformation, exaggeration, and wished to clarify that no one has been at the site in the middle of the night extracting water.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR HIRST TO CLOSE THE PUBLIC HEARING AND SET A DATE FOR A DECISION.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

The Council set October 17, 2022 as the date to render a decision.

VACANCIES AND APPOINTMENTS:

CHARTER COMMISSION

This matter was before the Town Council to discuss, consider and possibly vote to appoint William Felkner to the Charter Commission. Mr. Felkner was interviewed on September 19, 2022.

A MOTION WAS MADE BY COUNCILOR GEARY AND SECONDED BY COUNCILOR DAVIS TO APPOINT WILLIAM FELKNER TO THE CHARTER COMMISSION.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

CONSERVATION COMMISSION

Bradley Hodge submitted his resignation from the Conservation Commission.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MARVEL TO ACCEPT THE RESIGNATION FROM BRADLEY HODGE FROM THE CONSERVATION COMMISSION WITH REGRET.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

NEW BUSINESS:

INCREASE IN EDUCATION AID

The Town Council began discussion regarding the increase in State Education Aid and considered possibly voting to send a letter to the Chariho School District re: use of additional State Education Aid.

Town Manager Brian Rosso advised that while the town was going through its budget process, the Governor proposed additional state aid for all the municipalities. After the town had concluded its budget process and the Chariho School Committee completed their budget process, the House Finance Committee made a recommendation to increase state aid for education throughout the state which resulted in an increase of \$236,217 to the Town of Hopkinton in state aid for education. Mr. Rosso advised that this was a surplus of funds coming into the town which he thought the Town could keep and the Council could use it at their discretion; however, after consulting with the Town of Richmond, Attorney Sypole and Richmond's Solicitor, according to R.I.G.L. 16-7-23, they determined that they are legally obligated to give those funds to Chariho. Mr. Rosso noted that he has received letters from Chariho to that point. He wished to make a suggestion to the Council that they submit a letter to Chariho noting that we had concerns with these additional funds being provided to the School Committee because they were not budgeted. He felt that a letter should be sent to the School Committee asking them to hold these unanticipated funds as a surplus for FY 24 so the voters would have a chance to approve how those funds are spent.

Councilor Geary asked how much money Richmond and Charlestown received and Mr. Rosso noted that Richmond received \$265,095 and Charlestown received \$50,314. Councilor Davis asked about maintenance of effort, noting that Chariho's budget will be increased by a half Million Dollars; Council President Moffitt expounded on Councilor Davis' question of will this extra money be included in Chariho's budget in the next year where that amount cannot be lowered. Mr. Rosso did not know the answer to this. Solicitor Sypole advised that he had spoken with Karen Ellsworth, the attorney for Richmond, and they reviewed the statute and came to the same conclusion. Attorney Ellsworth provided him with a draft letter that Richmond will be sending to Chariho and Hopkinton's letter could model that. It basically stated that this money they were

receiving was not anticipated and should be treated as surplus and put into next year's budget.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MARVEL TO SEND THE MONEY THAT THE TOWN OF HOPKINTON RECEIVED AS ADDITIONAL STATE EDUCATION AID BE SENT TO CHARIHO WITH A LETTER REQUESTING THE CHARIHO SCHOOL COMMITTEE KEEP THOSE FUNDS AS A SURPLUS.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

MUTUAL AID RESOLUTION

A Mutual Aid Resolution re: Hopkinton Police Department and Non-adjacent RI municipalities and police departments was before the Town Council for consideration. Chief Palmer was present.

Chief Palmer noted that in 2021 the General Assembly amended the Mutual Aid Agreement and explained that Hopkinton already has Mutual Aid Agreements with Charlestown, Richmond, Westerly and URI, which allows them to have non-adjacent mutual aid agreements with all departments throughout the state. He explained that there are a lot of police officers who live in different towns and should there be an incident it would be good to have as many officers respond as possible.

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR GEARY TO APPROVE THE MUTUAL AID RESOLUTION.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

The Resolution follows:

RESOLUTION OF THE TOWN OF HOPKINTON
Allowing the police department of the Town of Hopkinton to collaborate with non-adjacent Rhode Island municipalities and police departments through a state-wide mutual aid agreement

Resolved that:

Whereas, the Town of Hopkinton desires to promote cross-municipal police collaboration to achieve desired outcomes in the Town of Hopkinton, and

Whereas, the General Assembly enacted R.I.G.L. sec. 45-42-2 and then amended it in 2021 through P.L. 2021, ch.108 providing the Town of Hopkinton a mechanism to authorize nonemergency mutual aid agreements between nonadjacent municipalities, their police departments, and institutions of higher education within the Town of Hopkinton; and

Whereas, the General Assembly has granted such authority to other municipalities in Rhode Island through enabling legislation;

Now, therefore, be it resolved that the Town of Hopkinton hereby authorizes the Town of Hopkinton Police Department to collaborate with nonadjacent Rhode Island municipalities and police departments pursuant to the State-wide Mutual Aid Agreement. Said Resolution shall take effect immediately upon passage.

UNFINISHED BUSINESS:

DECISION RE: PROPOSED AMENDMENT TO THE DISTRICT USE TABLE, USE CATEGORY 07 ACCESSORY FAMILY DWELLING UNIT

This matter had been scheduled for the Town Council to render a decision on proposed amendments to the Zoning Ordinance District Use Table Use Category 07 Accessory Family Dwelling Unit and to consider repealing Chapter 151 Accessory Family Dwelling Unit Ordinance introduced and sponsored by Councilor Moffitt and heard on September 19, 2022.

A MOTION WAS MADE BY COUNCILOR DAVIS AND SECONDED BY COUNCILOR MARVEL TO APPROVE THE ORDINANCE AMENDMENT.

IN FAVOR: Moffitt, Davis, Geary, Hirst, Marvel

OPPOSED: None

SO VOTED

REPORTS OF OFFICERS, BOARDS & COMMITTEES:

TOWN SOLICITOR’S REPORT RE: POTTER HILL MILL

Solicitor Sypole wished to update the Council on this matter, noting that the receiver had filed a Post-Closing Interim Report with the Superior Court for the purpose of asking the Judge to approve attorney fees and keep the receivership open to assist Westerly as it goes through the process of permitting the demolition of the buildings. The report that the receiver filed memorializes that the property has been transferred to the ownership of the Town of Westerly with an easement over the Hopkinton portion being granted, which was discussed when the receiver was present. Westerly now has access on the Hopkinton side to do whatever

work needs to be done to evaluate the dam. The report notes that there was an underwater dive of the dam performed on September 1, 2022 and he reached out to Attorney Dorsey to see if there was a report available that he could share with the Council; however, this was not available yet and he would provide it when it became available.

TOWN MANAGER REPORT – ARPA FUND UPDATE

Mr. Rosso advised that he had coordinated a meeting with Richmond and the consultant and they discussed terms and have a contract in place for third parties, meaning emergency services. He has scheduled a follow-up meeting with the Chiefs from Emergency Services for Wednesday at 2:00 p.m., along with the Richmond Town Manager, Richmond Finance Director, Elizabeth Monty and the consultants. They are going to put a presentation together for the emergency services in order to explain the terms; go through the contract; and, answer any questions. Once they have contracts in place they will start distributing those funds. This makes them liable to submit vouchers and invoices and follow reporting requirements. Mr. Rosso noted that he had already met with department heads, Public Works and Chief Palmer and they are starting the RFP process. They do not need to have an RFP if something was on the State MPA. Mr. Rosso has found that it was very hard to get vendors to commit to pricing so they might be reluctant to bid. No one wants to sign up for a price on a delivery date for the following year. Councilor Davis asked about the other proposed projects, including the town hall expansion. Mr. Rosso explained that they had been grandfathered in with the current wetland regulations; however, that application had lapsed. They have resubmitted the application which is being reviewed by DEM and then they can proceed. Thereafter, Mr. Rosso will meet with the architect to make sure that no regulations have changed any of the current building codes that he has worked into pricing and design. Regarding the community center, they are still waiting on the state and hoped by the end of October to determine if they are approved for the state match and what the terms will be. They still have to approve the individual project and determine the amount of money that will be approved. Some of the proposed projects are on pause because they are trying to determine if they qualify for any grant funding.

UConn has a program and they will have grad students come and conduct studies on the well at Public Works and they will help us apply for grants. The Planning Office has been working closely with UConn in an attempt to obtain a grant for that project. Mr. Rosso also noted that the two companies who have come out to look at the project are hesitant to do anything because they feel we may be in the same situation with a new well. Regarding the IT project, they are attempting to obtain Cyber Security grants to assist with that work.

PUBLIC COMMENT

Ron Prellwitz of Main Street spoke regarding Attorney Boisclair and Mr. Benn’s comments and wished the Council to watch the video from the last Planning Board meeting and make up their own minds as to what occurred.

Joe Moreau of Old Depot Road wished to thank Mr. Rosso and Council President Moffitt for the update of the ARPA funds. He also advised that the Communication Committee had prepared an eight question survey about improving communications in our town which he delivered to Canonchet Cliffs, Saugatucket Springs and Rockville Mill, noting that only six people have responded. Mr. Moreau wondered how they could get information concerning the cannabis proposal out to the residents so that they could make an informed vote in November. Councilor Davis noted that the presentation that was made at one of their meetings was posted on the town’s website.

ADJOURNMENT

A MOTION WAS MADE BY COUNCILOR HIRST AND SECONDED BY COUNCILOR MARVEL TO ADJOURN.

SO VOTED

Elizabeth J. Cook-Martin

Town Clerk

Marita D. Murray

Deputy Town Clerk